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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,401	08/27/2001	Francois Marquis	33904	4354
116	7590	05/11/2009	EXAMINER	
PEARNE & GORDON LLP			FAULK, DEVONA E	
1801 EAST 9TH STREET				
SUITE 1200			ART UNIT	PAPER NUMBER
CLEVELAND, OH 44114-3108			2614	
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			05/11/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/940,401	MARQUIS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	DEVONA E. FAULK	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 February 2009.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4 and 6-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1-4 and 6-13 is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 9/26/01 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, regarding the amended claim language, filed 2/20/09, with respect to claims 1-4, 6-13 have been fully considered and are persuasive. The rejection of claims has been withdrawn.
2. Claim 5 and 14 are cancelled.
3. The examiner has determined that there are some problems in the specification

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A “Sequence Listing” is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required “Sequence Listing” is not submitted as an electronic document on compact disc).

The specification needs to comply with this format.

***Allowable Subject Matter***

4. Claims 1-4 and 6-13 contain allowable subject matter.
5. The following is a statement of reasons for the indication of allowable subject matter: Prior art Kuznicki et al. (US 4,972,439) Regarding claim 1, Kuznicki discloses a wireless transmitter (transmitter illustrated in Figure 3) comprising:

An antenna (Figure 3);

A transmitter signal generator unit generating a signal to be transmitted at an output and having a control input , a control signal applied to said control input controlling at least one of a frequency band and of a power level of said signal to be transmitted (216is the transmitter signal generator; Kuznicki discloses a decoder whose output controls the frequency or power selection (Figure 3; column 5, lines 45-55); said output of said generation being operationally connected to said antenna (Figure 3); an audio signal/control signal decoder unit (decoder 208 outputs signals that control the frequency or power selection , a channel select signal and a power control signal of which either can read on control signal , column 5, lines 45-55;column 8, lines 47-57), said decoder unit generating said control signal at an output of said decoder unit in response to an encoded audio signal at an input of said decoder unit (the signal that is

input into the decoder is an encoded audio signal, Figure 1 shows that the signal input into the transmitter illustrated in Figure 3 comes from a telephone source and also the telephone signal is processed through a modem which transmits digital data over telephone by modulating the data into an audio signal, therefore the decoder outputs in response to an encoded signal; column 5, lines 35-43;); said output of said decoder unit being operationally connected to said control input of said generator unit (Figure 3; column 5, lines 45-55); a modulator unit (212, Figure 3; column 5, line 59-column 6, line 10) with a carrier frequency signal input and an output (Figure 3; column 6, lines 12-25), the output of the modulator unit being operationally connected to said output of said generator unit and having a modulation input, said modulation input being operationally connected to said input for said encoded audio signal ( the modulator is operationally connected to the output of the transmitter and to the telephone signal which is the input signal (Figures 1 and 3; column 2, lines 55-67;column 5, lines 45-55). Prior art Mathieu et al. (US 5,852,636) discloses a transmitter that includes a modulator (Figure 1, transmitter 10 includes modulator 20; column 5, lines 8-10).

The prior art or combination thereof fails to disclose or make obvious the invention as a whole particularly said input of said decoder unit being operationally connected to said output of said generator unit, via said modulation input, for wirelessly transmitting audio content of said encoded audio signal in light of the rest of the claim.

Claims 2-4,6-13 are allowed due to dependency on claim 1.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEVONA E. FAULK whose telephone number is (571)272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devona E. Faulk/  
Examiner, Art Unit 2614